



April 3, 1996

California Office  
Rockridge Market Hall  
5655 College Ave.  
Oakland, CA 94618  
(510) 638-8008  
Fax: 510-638-0630

Mr. Walter Pettit, Executive Officer  
State Water Resources Control Board  
901 P Street  
Sacramento, CA 95814

via Federal Express and Facsimile

Dear Mr. Pettit:

Unfortunately, no one representing the Environmental Defense Fund (EDF) is able to attend your workshop scheduled for April 4, 1996, on the infamous San Luis Drain.

Were we able to attend, we would recommend to you and the Board members that you save everyone time, trouble and money by announcing at the workshop that the Board will not entertain a permit application for construction of the Drain for the foreseeable future. After all, you are part of the administration of Governor Pete Wilson, who has made substantial efforts to bring warring California water interests together, beginning with his April 1992 water policy address and continuing with his sponsorship of the CALFED process and of the celebrated Bay Delta Accord. A Wilson administration approval and construction of the Drain (recall that the Governor is still actively seeking to take over ownership and operation of the Central Valley Project) would destroy all the progress which he and others have made in bringing peace to California's water wars.

Aside from the Drain's obvious political and environmental liabilities, there is the matter of cost, an issue glossed over by District Judge Wanger in issuing his order to the Bureau of Reclamation to proceed with a permit application for the Drain. You are to be congratulated for announcing in your background document for the workshop that the Board has no intention of dunning state taxpayers for a contribution to support your review of the Bureau's application. But what, may we ask, is the justification for federal taxpayers picking up the tab for this utter waste of everyone's time and energies? If West Side interests want to build a Drain and run the gauntlet of regulatory and environmental reviews that would inevitably follow from the pursuit of this foolish course, let them put up the requisite financing themselves.

Finally, EDF does have one brief additional comment on a matter dealing both with the environmental integrity of the Delta and the integrity of the Board's regulatory processes, as they bear upon both the unregulated growers on the Valley's West Side and the heavily regulated oil refineries of the Bay Area.

*National Headquarters*

257 Park Avenue South  
New York, NY 10010  
(212) 505-2100

1875 Connecticut Ave., N.W.  
Washington, DC 20009  
(202) 387-3500

1405 Arapahoe Ave.  
Boulder, CO 80302  
(303) 440-4901

128 East Hargett St.  
Raleigh, NC 27601  
(919) 821-7793

44 East Avenue  
Austin, TX 78701  
(512) 478-5161

*Project Office*

6 Faneuil Hall Marketplace  
Boston, MA 02109  
(617) 723-2996

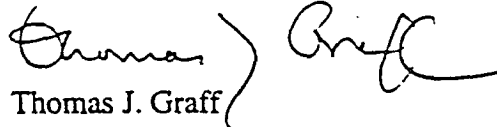
April 3, 1996  
Mr. Walter Pettit  
Page Two

Any additional discharge of selenium into the San Francisco Estuary should be governed by the Mass Emissions Strategy adopted by the Board in its Pollutant Policy Document (Resolution No. 90-67). More specifically, application of the Mass Emissions Strategy to selenium discharges should take the form of phased reductions in current selenium loads. Any additional selenium discharges into the estuary must be offset by additional reductions in current loads. For additional information on the Mass Emissions Strategy and how it relates to concentration standards for selenium, please see EDF's letter to Steven R. Ritchie, commenting on the Proposed Amendment to the Water Quality Control Plan, August 11, 1993, and Comments of the Environmental Defense Fund on Mass Emissions Reduction Strategy for Selenium, November 18, 1992 (copies attached).

In light of the need to reduce current selenium loads, it appears infeasible to allow discharge from the San Luis Drain into the estuary as planned. Current selenium loads, primarily from oil refineries -- that are already too high -- are only about half the selenium discharges that have been proposed from the San Luis Drain, if extended to the estuary. Proposed selenium discharges from the San Luis Drain would be on the order of 8,000 pounds per year or greater, according to testimony from federal experts cited by Judge Wanger.

For this reason, EDF sees no reason to provide additional technical comments to the Board at this time. We do note, however, -- in case the Board considers mixing zone policies for other discharges -- that EDF opposes allowing a mixing zone for any bioaccumulative pollutant, not just for selenium.

Sincerely,

  
Thomas J. Graff  
Senior Attorney

TG:vrp

cc: Hon. Pete Wilson, Governor of California  
Hon. Jim Strock, Secretary, California Environmental Protection Agency  
Hon. Doug Wheeler, Secretary, Resources Agency  
Hon. Kevin Sloat, Office of the Governor

Enclosures